S. HRG. 98-4

NOMINATIONS OF JOHN C. MILLER AND BARBARA J. MAHONE

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF JOHN C. MILLER TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

AND THE

NOMINATION OF BARBARA J. MAHONE TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

FEBRUARY 22, 1983

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CONTENTS

	Page
Opening statement of Senator Roth	1

WITNESSES

TUESDAY, FEBRUARY 22, 1983

John C. Miller, nominee to be General Counsel of the Federal Labor Relations Authority	14
Biographical information	1
Responses to prehearing questions	4
Responses to written questions submitted by Senator Danforth	6
Barbara J. Mahone, nominee to be a member of the Federal Labor Relations Authority	14
Biographical information	7
Responses to prehearing questions	11
Responses to written questions submitted by Senator Danforth	13
Prepared statement	15

NOMINATIONS OF JOHN C. MILLER AND BARBARA J. MAHONE

TUESDAY, FEBRUARY 22, 1983

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 3:05 p.m. in room SD–346 of the Dirksen Senate Office Building, Hon. William V. Roth, Jr., chairman of the committee presiding.

Present: Senators Roth and Bingaman.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. The committee will be in order.

This afternoon, we are holding a hearing to consider the nominations of John Miller to serve as General Counsel and of Barbara Mahone to serve as a member of the Federal Labor Relations Authority.

I welcome both of you to the committee and thank both of you for your cooperation with the members of the committee and the staff.

The Federal Labor Relations Authority is responsible for overseeing the labor-management relations program of the Federal Government. The Authority must provide leadership in setting policy and providing guidance directed both toward promoting good labor-management relations and minimizing disputes between labor and management in the civil service.

The General Counsel has an equally important role. He must investigate alleged unfair labor practices and then file and prosecute complaints of unfair labor practices before the Authority.

To aid in the evaluation of the credentials of these nominees to serve in these positions, the committee has received information from the Office of Government Ethics and the FBI. The nominees have filed responses to a biographical and financial questionnaire, and they have answered several prehearing questions.

Without objection, this information will be made a part of the committee hearing record.

[The biographical information and responses to prehearing questions follow:]

BIOGRAPHICAL INFORMATION AND RESPONSES TO PREHEARING QUESTIONS

JOHN C. MILLER

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)
Answer. John Carl Miller (Jack).

Question 2. Address: List current residence address and mailing address.

Answer. Residence—10500 Rockville Pike, G–20, Rockville, Md 20852; business—1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

Question 3. Date and Place of Birth.

Answer. Cleveland, Ohio—April 18, 1926.

Question 4. Martial Status: (Include maiden name of wife or husband's name.)

Answer. Divorced—(Former spouse Colleen Shelley).

Question 5. Names and ages of children.

Answer. Paul G. Miller, Age 22; Jeffrey B. Miller, Age 20.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. LLB, LLM—Georgetown Law School, 1955, and 1957, respectively; BS, BA—Bowling Green State University, Bowling Green, Ohio (1950); Scholastically eligible for Law Journal but accelerated program, bar review school, two bar examinations in June 1955, and parttime employment precluded participation. Member of Bars of District of Columbia and Ohio.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. August 1981—Present: Chief Counsel to Chairman Van de Water, National Labor Relations Board.

1977–81: Administrative Law Judge, National Labor Relations Board.

1972–77: Solicitor, National Labor Relations Board Includes 3½ months as acting General Counsel in period August–December 1, 1975).

1971–72: Minority Counsel, House Education and Labor Committee. Ranking minority Congressman: Albert Quie of Minnesota; Second ranking minority Congressman: John Ashbrook of Ohio.

1963–71: Supervisory Attorney on the staff of Howard Jenkins; supervise three to six attorneys; regularly attend subpanels as representative of Board Member and make initial determinations on pending cases; analyze and recommend disposition of cases; special research projects.

1959–63: Attorney-Advisor (Labor) on the staffs of Board Members Rogers and Boyd Leedom of the National Labor Relations Board. Handle individual cases, write memorandums and decisions.

1958–59: Attorney Advisor, Office of Appeals of the General Counsel of the National Labor Relations Board. Review and recommend disposition of cases on appeal from the Regional Director's refusal to issue complaints.

1955–58: Attorney, Labor Relations and Legal Department, Chamber of Commerce of the United States, 1615 H Street, N.W., Washington, D.C. Review and research cases in preparation of amicus briefs; analyze and write articles on major labor decisions concerning Taft-Hartley, Railway Labor Act, Walsh-Healey Act, Fair Labor Standards Act; assist in the preparation of Chamber of Commerce witnesses before Congressional Committee; analysis of pending bills in Congress.

Question 8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer: U.S. Army, 1944–46; U.S. Postal Service, 1950–53; National Labor Relations Board, 1958–1971; House of Representatives, Education & Labor Committee, 1971–72. No State or local government experience.

Question 9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterpise, educational, or other institution.

Answer. None except as listed in item 8.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civil, charitable and other organizations.

Answer. Recording Secretary, Delta Tau Delta (Social) Fraternity; Bowling Green State University: Delta Sigma (Journalism Honorary), Bowling Green State University; American Bar Association (approximately 1972–73); Board of Directors (President), Grosvenor Park Condominium (1981); Board of Directors (Vice-President), Grosvenor Park Condominium (1982).

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. Voting domicile—Ohio—Republican. Financial contributions to: Republican National Committee or Republican Congressional Committee—contributions ranging from $50 to $250 per annum (1972–82).

Question 12. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. Sustained superior award—National Labor Relations Board, 1970; Outstanding performance—National Labor Relations Board, 1982 award.

Question 13. Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Article—Federal Bar Journal (April–June issue 1958 entitled "Conflicts in Circuit Courts Over Enforcement of Arbitration Awards.")

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) Qualifying background experience.

(b) Over 20 years' experience in varying positions with the National Labor Relations Board. The Federal Labor Relations Authority's functions were modeled after the NLRB. My experience as Acting General Counsel of the NLRB and other managerial posts, e.g. Solicitor, Chief Counsel to the Chairman provide valuable experience.

E. FINANCIAL INFORMATION (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. None.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat

or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. Expect none in view of my past government employment. If it arose, I could disqualify myself from consideration of any matters constituting a conflict of interest.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes, if deemed necessary.

E. LEGAL MATTER

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleads of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, John Carl Miller, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

JOHN CARL MILLER.
JOYCE W. CRUDE,
Notary.

Dec. 9, 1982.

RESPONSES TO PREHEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1. Is there any issue currently under consideration by the Federal Labor Relations Authority from which you may have to disqualify yourself? If so, please explain.

Answer. I assume the question relates to my position as General Counsel since an issue under consideration by the Authority Members does not require my disqualification. However, there may be from time to time, charges involving my current agency, the National Labor Relations Board, in which case I would deem it best not to participate.

Question 2. How were you selected to be nominated to serve as the General Counsel to the Federal Labor Relations Authority? Were any conditions, expressed or implied, attached to your nomination?

Answer. I was selected to be nominated to serve as the General Counsel to the Federal Labor Relations Authority by the White House Presidential Appointments staff. No conditions were attached to my nomination.

Question 3. Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as the General Counsel to the FLRA? If so, please describe these commitments.

Answer. No specific commitments have been made. Of course, optimum utilization of my staff to insure an effective agency operation within existing budgetary constraints is a desired goal.

Question 4. Why did you take this appointment to be General Counsel to the Federal Labor Relations Authority?

Answer. The position is a Presidential appointment and the additional prestige and responsibility are factors making the appointment a desirable one. There are no monetary incentives involved.

Question 5. Why do you feel that you are particularly well qualified to serve in this position?

Answer. The FLRA was created and modeled after the National Labor Relations Board. I have held a number of posts in my 20 years of service with the NLRB, namely, Solicitor, Acting General Counsel, Chief Counsel to a Board Member and my current interim post as Chairman which has given me a broad experience in handling representation elections and unfair labor practices.

II. THE FEDERAL LABOR RELATIONS AUTHORITY

Question 1. What do you believe to be the role and responsibilities of the Federal Labor Relations Authority?

Answer. Section 7105 of the Act provides that the Authority shall provide leadership in establishing policies and guidance relating to Title VII. I assume the Authority will strive to administer and enforce the Act in a completely fair and impartial manner and that it will be done in a manner consistent with Congressional intent. Needless to say, it is important that cases be timely processed and decided.

Question 2. What are the FLRA's most important functions?

Answer. Timely processing of representation petitions and unfair labor practice charges and ultimately timely decision making by the Authority.

Question 3. What do you feel are the most important functions of the position to which you have been nominated?

Answer. As General Counsel I (through my staff) am authorized to investigate charges of unfair labor practices, prosecute unfair labor practice complaints and supervise and direct employees of the General Counsel in the national and regional offices. Expeditious processing of these charges and complaints is an important function. Since I have the sole authority to issue complaints, it is important that I strike an appropriate balance between dismissal of clearly frivolous charges and processing cases containing issues of first impression or of relevant policy matters not previously decided by the Authority. In sum, the Authority must be given the opportunity to make law and policy in appropriate cases without necessarily burdening the Authority with frivolous cases. In that respect, I intend to see that settlement of meritorious charges is emphasized.

Question 4. How do you see the relationship between the FLRA and (a) the Office of Personnel Management and, (b) the Merit Systems Protection Board?

Answer. OPM issues rules, regulations and guidance for Federal managers throughout the Federal government. In some instances the General Counsel and ultimately the Authority Members will have to decide whether such rules, regulations or the conduct of Federal managers is lawful or unlawful under our statute. Consequently, it is important for the FLRA and OPM to maintain an at arm's length relationship since they represent the management aspect of our labor-management constituency.

With respect to the Merit Systems Protection Board, we have complementary roles. In some cases, mainly certain adverse actions, exclusive jurisdiction may rest with MSPB. In others, the FLRA may have jurisdiction. Consequently, an on-going coordinated effort with MSPB is required.

Question 5. In addition to exercising the specific responsibilities as described in section 7105(a)(2), what do you plan to do to both identify and promote good labor management relations in the government and avoid as much as possible any disputes between labor and management?

Answer. If possible, expansion of our settlement efforts so that agencies and employees will not engage in acrimonious litigation. In addition staff members will be encouraged to participate in seminars involving public employees so that our expertise can be shared with management and labor and hopefully result in harmonious labor-management relations.

Question 6. How do you plan to ensure consistency between the decisions of the FLRA and the decisions of the MSPB in any cases which involve both, such as either allegations of unfair labor practices or discrimination?

Answer. It is my understanding that there currently is a continuous interchange between the General Counsel of MSPB and the General Counsel of the FLRA over overlapping jurisdiction. I think it is important to continue that practice and if necessary, expand it, to insure questions of which agency has jurisdiction be resolved at an early stage of any proceedings. With respect to insuring consistency between the decisions of the Authority and the MSPB, I leave that to the Chairman and the Members of the Authority, and their views as to the need for consistency and means of achieving it.

Question 7. Do you feel that labor-management relations in the Federal government should resemble as closely as possible the practices and precedents of those in the private sector? Are there important differences between the two?

Answer. Not necessarily but in many respects I do feel that labor-management relations in the Federal government should resemble as closely as possible the practices and precedents of those in the private sector. However, there are important differences between the two, *inter alia*, the right to strike and the areas of negotiability which distinguish between the private and public sector.

Question 8. As you know, the General Counsel, unlike the Members themselves, serves at the pleasure of the President. And, his duties are prosecutorial whereas the other Members serve in an adjudicatory role. What do you think is the proper relationship between the General Counsel and the rest of the FLRA? How independent do you think the General Counsel should be from other Members of the Authority?

Answer. The General Counsel is independent in the sense that he has sole authority to decide whether complaints should issue. In other areas, there should be cooperation in resolving common problems of the agency. For examle, in budget and certain staffing positions, there should be cooperation. I think the General Counsel should have supervisory authority over the regional offices and the Washington staff.

III. THE CIVIL SERVICE REFORM ACT

Question 1. What do you feel are the most important principles of the Civil Service Reform Act?

Answer. The most important principles of the Civil Service Reform Act are those involving employee responsibilities and protection. In particular, I would call attention to language of Section 7101 and Section 7102 of Title VII.

Question 2. Do you feel that the Civil Service Reform Act offers too much, too little, or the appropriate amount of protection for the Federal employee?

Answer. On balance I believe the Civil Service Reform Act offers an appropriate amount of protection for Federal employees. I do believe, however, that there is room for improvement with regard to the timeliness of the methods which the CSRA has created to protect employee rights.

Question 3. Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

Answer. I believe improvements in the funding system for the Merit Pay System established by Title V would be helpful in carrying out the goals of the legislation. I believe the system should be funded in a manner which would allow the rewarding of the outstanding supervisor or manager, but not at the expense of his or her peers who may be excellent performers although not outstanding.

IV. RELATIONS WITH CONGRESS

Question 1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of the Congress if you are confirmed?

Answer. If I am confirmed I do agree without reservations to respond to any reasonable summons to appear and testify before any duly constituted Committee of the Congress.

RESPONSES OF MR. MILLER TO WRITTEN QUESTIONS SUBMITTED BY SENATOR DANFORTH

A report by the General Accounting Office disagrees with the FLRA's characterization of its violation of the Anti-Deficiency Act as a mere technicality and presents three options for further action.

Question 1. What is your view of the matter?

Answer. I would term the violation of the Anti-Deficiency Act, essentially dealing with the procurement of furniture, as improper and regrettable. In mitigation, however, I note that Members of the Authority were not properly advised by staff and that Members of the Authority did not knowingly violate the law.

Question 2. What recommendations will you present to the Chairman and Members?

Answer. Assuming the matter is not resolved by the time I take office, I note the GAO report indicates that corrective actions are currently being implemented and would prevent a recurrence. As to the remedial options available, I would not recommend return of the goods nor would I recommend seeking a supplemental appropriation. It would appear that paying it from current appropriations or from prior years approriations would be the most feasible approach. In any event, whatever approach is deemed best, it should certainly be cleared with OMB and GAO as to its legality and propriety, and that it complies with regulations.

The previous General Counsel believed that there should be substantially greater management coordination between his office and the Members. He indicated that an arm's length, almost adversarial, relationship existed even on such administrative matters as the acquisition and use of data-processing and word-processing systems.

Question 1. What should the relationship between the General Counsel and the Members?

Answer. A pragmatic working relationship should be developed between the General Counsel and the Members. We have common problems, e.g., allocation of our budgetary resources and we have a common goal, namely, effective operation of the agency as a whole. I anticipate no problems in developing a forthright working relationship with the Members.

Question 2. What recommendations will you present to the Chairman and Members in this regard?

Answer. Initially I would propose weekly meetings with the Members. Thereafter, it is possible that as meetings become more routine, I can meet simply with the Chairman or a designated Member unless the topic to be discussed is of a policy making nature. Additional recommendations would have to await my assessment of the job and the necessity for a free interchange of ideas whether it be telephonically or by written memorandum.

Barbara J. Mahone

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. Barbara Jean Mahone.

Question 2. Address: List current residence address and mailing address.

Answer. Current Residence: 119 Manor Brook, South Russell, Ohio; Mailing Address: 119 Manor Brook, Chagrin Falls, Ohio 44022.

Question 3. Date and Place of Birth.

Answer. April 19, 1946, Notasulga, Alabama.

Question 4. Marital Status.

Answer. Single.

Question 5. Names and ages of children.

Answer. None.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Ohio State University, 1964–68, B.S., Bus. Administration—1968; University of Michigan, 1971–72, MBA—1972; Harvard University, Program for Management Development, Certificate—1981.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. Systems Analyst, General Motors Corporation, Corporate Headquarters, Detroit, Michigan, June 1968–September 1971.

Educational Leave of Absence to attend University of Michigan, Ann Arbor, Michigan, September 1971–January 1973.

Staff Assistant, General Motors Corporation, Corporate Headquarters, Detroit, Michigan, January 1973–June 1974.

Senior Staff Assistant, General Motors Corporation, Corporate Headquarters, Detroit, Michigan, June 1974–November 1974.

Manager, Career Planning, General Motors Corporation, Corporate Headquarters, Detroit, Michigan, November 1974–December 1977.

Executive-in-Training, General Motors Corporation, Corporate Headquarters, Detroit, Michigan, December 1977–October 1978.

Director, Personnel Administration, General Motors Corporation, Rochester Products Division, Rochester, New York, October 1978–April 1982.

Manager, Industrial Relations, General Motors Corporation, Packard Electric Division, Warren, Ohio, April 1982–present.

Question 8. Government experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. December 1965 and December 1966—worked for approximately 2 weeks each year as a temporary employee during the Christmas Holiday period at Cleveland Main Post Office.

Summer 1966 and 1967—Cleveland Board of Education, City of Cleveland, Recreational Instructor.

Question 9. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. Previous: Special Instructor, Managerial and Technical Career Programs, College of Lifelong Learning, Wayne State University, Detroit, Michigan, Fall Term, 1975; Community Savings Bank, Rochester, New York, Advisory Committee; Supported Work Corporation, Detroit, Michigan, Board of Directors.

Current: BEF Investment Club, Agent.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. National Black MBA Association, Chapter President, National President, Chairman of Advisory Board, Board of Directors;[1] National Council of Negro Women, Executive Board;[1] Women Economic Club, Board of Directors; Industrial Relations Research Association, Member; International Association for Personnel Women, Member; American Red Cross—Rochester, New York Chapter, Board of Directors; Urban League of Rochester, New York, Board of Directors.

YMCA of Rochester, New York, Human Resources Committee; United Way of Greater Rochester, New York, Allocations Committee; Rochester Area Multiple Sclerosis, Inc., Board of Directors; National Alliance of Businessmen, Youth Motivation Task Force; Engineering Society of Detroit, member; Memorial Art Gallery of the University of Rochester, member.

National Association for the Advancement of Colored People (NAACP), Member; AMBA Executives, Member; OSU Alumni, Member; University of Michigan, Alumni, Member; National Association of Negro Business & Professional Women, National Public Relations Committee.

University of Michigan: President of Business Women's Association; Field Coordinator—Minority Business Consulting Association; Black Business Students Association.

Ohio State University: Administrative Secretary, USAF Angel Flight; Phi Chi Theta; Bradley Hall Dormitory Council.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

Answer. Undesignated political contributions have been made through General Motors Political Action Committee.

Question 12. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognition for outstanding service or achievements.

Answer. Fellowship—University of Michigan, 1971 and 1972; 1976 Public Relations Award—National Association of Negro Business and Professional Women,

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[1] Current memberships.

Inc.; Listed among Outstanding Black Women in 1975, Michigan Chronicle; National Alliance of Businessmen Youth Motivation Task Force Commendation; Listed in Who's Who among Black Americans; 1977 Mary McLeod Bethune Award—National Council of Negro Women.

Selected by Redbook Magazine (April, 1978) as one of 11 Women "Making It Happen in Michigan"; State of Michigan Legislature Senate Concurrent Resolution No. 883 for Community Service; General Motors Award for Excellence in Community Activities; Detroit Young Adult Club of National Association of Negro Business and Professional Women's Club, Inc., Young Woman of the Year Award, 1978; National Black MBA Association Outstanding MBA of the Year Award (1981), and Distinguished Service Awards (1980 and 1981); University of Michigan—Black Student Association Distinguished Business Person Award.

Question 13. Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Black Collegian, September/October 1975 issue, "Introducing Yourself"; Woman MGA—Plan Your Career (Copy of article retained—name of publication unknown); co-author of recruiting brochure, "Black Students, The University of Michigan/School of Business Administration", 1972.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last five years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None relevant to the position.

Question 15. Selection: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) No.

(b) My background and employment experience includes graduate level education and broad work experience in industrial relations.

With respect to academic preparation, I completed the BMA Program at the University of Michigan with a special concentration in industrial relations. Since then I have continued to broaden my understanding of industrial relations issues and most recently completed the Program for Management Development at Harvard University, Graduate School of Business and a one-week labor relations workshop offered by General Motors Corporation for its executives.

In terms of employment experience, I have held a variety of industrial relations assignments beginning with an initial assignment in 1973 on General Motors Corporate Industrial Relations Staff and culminating with my current assignment as Manager, Industrial Relations. I have served as a member of national negotiating teams during contract negotiations between General Motors and two major unions—the United Atuomobile, Aerospace and Agricultural Implement Workers of America (UAW) and the International Union of Electrical, Radio and Machine Workers (IUE). In addition, I have formulated Corporate strategies and policies concerning labor relations and human resources issues. Currently, I am responsible for the industrial relations function of General Motors' Packard Electric Division. This responsibility includes serving as the Division's chief management negotiator concerning labor relations matters.

The above experiences have afforded me the opportunity to handle complex personnel issues in a large multinational manufacturing organization. I believe my background and employment experience affirmatively qualifies me for this particular appointment.

B. FINANCIAL INFORMATION (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. None.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. Should any conflict of interest arise I will seek and abide by the advice and guidance of the General Counsel.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. No known potential conflicts of interest. However, will agree to have any written opinions.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. Yes. In 1973 the Michigan Consolidated Gas Company improperly connected a kitchen stove. In attempting to use the oven, an explosion occurred which resulted in burns. Litigation resulted and the case was settled in 1979 for $1,200.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. No additional relevant information.

AFFIDAVIT

I, Barbara Jean Mahone, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Feb. 4, 1983.

BARBARA JEAN MAHONE.
BARBARA A. WASKO,
Notary.

RESPONSES TO PREHEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1. Is there any issue currently under consideration by the Federal Labor Relations Authority from which you have to disqualify yourself? If so, please explain.

Answer. I am not aware of any issue currently under consideration by the Federal Labor Relations Authority which would require me to disqualify myself. However, I would not hesitate to disqualify myself should an issue arise which would present a conflict of interest.

Question 2. How were you selected to be nominated to serve as a member of the Federal Labor Relations Authority? Were any conditions, expressed or implied, attached to your nomination?

Answer. To my knowledge, the selection was a result of my professional qualifications and managerial experience. The initial contact was made by the White House. At no time during the discussions were there any conditions, expressed or implied, attached to my nomination.

Question 3. Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as a member of the FLRA? If so, please describe these commitments.

Answer. No.

Question 4. Why did you take this appointment to be a Member of the Federal Labor Relations Authority?

Answer. I accepted this appointment because I felt that my professional experiences would enable me to make a meaningful contribution to Federal labor relations matters. Also, I believe this appointment would be a very challenging and rewarding opportunity.

Question 5. Why do you feel that you are particularly well qualified to serve in this position?

Answer. I feel that my background and employment experience in the area of industrial relations and collective bargaining makes me particularly well qualified to serve in this position. I have held a variety of industrial relations assignments with a major unionized manufacturing firm. I have served as a member of national negotiating teams during contract negotiations with major automotive unions. In addition, I have formulated corporate strategies and policies concerning labor relations and human resources issues. Most recently I have been involved in joint union-management efforts which have resulted in innovative and cooperative approaches to resolving labor relations issues. This first-hand experience coupled with my managerial experience should be a real asset to the FLRA.

II. THE FEDERAL LABOR RELATIONS AUTHORITY

Question 1. What do you believe to be the role and responsibilities of the Federal Labor Relations Authority?

Answer. I believe the role of the Federal Labor Relations Authority is to function as an independent agency in administering the Federal Service Labor-Management Relations Program. Its major responsibility is to interpret and enforce provisions of the Federal Service Labor-Management Relations Statute established under the Civil Service Reform Act of 1978 in a manner consistent with the requirements of an effective and efficient government. In addition, the Authority serves in a leadership role in establishing policies and providing guidance concerning the interpretation of the Statute. This will facilitate the resolution of issues at the lowest possible level, promote good labor management relations and minimize disputes between labor and management.

Question 2. What are the FLRA's most important functions?

Answer. I believe the FLRA's most important function is to insure compliance with the statutory rights and obligations of Federal employes, labor organiza-

tions which represent such employes and Federal agencies under Title VII of the Civil Service Reform Act. Major functions would include deciding negotiability issues, determining the appropriateness of bargaining units, supervising elections and resolving unfair labor practices. In addition, the Authority is responsible for resolving exceptions to arbitrator's awards and prescribing criteria and resolving issues relating to granting of national consultation rights, determining compelling need for agency rules or regulations and granting consultation rights with respect to conditions of employment.

Question 3. What do you feel are the most important functions of the position to which you have been nominated?

Answer. As a member of the Authority my most important functions are:

Administrative—As a member of the Authority I would be responsible for reviewing cases and rendering fair and impartial decisions in an expeditious manner.

Managerial—If confirmed, as Chairman of the Authority my major responsibility will be to provide the necessary leadership to assure the effective and efficient management of the Agency. Although the Statute does not designate the Chairman as head of the Agency, one of my major priorities will be the management of the Agency.

Question 4. How do you see the relationship between the FLRA and (a) the Office of Personnel Management and (b) the Merit Systems Protection Board?

Answer. The Civil Service Reform Act established three agencies to serve as independent organizations. Although the agencies must act independently there are functions which overlap and therefore, require communication and coordination.

I see the relationship between the FLRA and the Office of Personnel Management (OPM) as being one of an arms length nature. However, the Federal Service Labor-Management Relations Statute does provide that the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of the rules, regulations, or policy directives issued by OPM in connection with any matter before the Authority. The Authority can seek advisory opinion whenever appropriate. This should not impact the FLRA as an independent and impartial agency.

I see the relationship between the FLRA and Merit Systems Protection Board as multi-faceted interrelationships. There may be cases which result in the same issue being reviewed by both Agencies. This possibility requires close coordination because of overlapping responsibilities.

Question 5. How do you plan to ensure consistency between the decisions of the FLRA and the decisions of the MSPB in any cases which involve both, such as either allegations of unfair labor practices or discrimination?

Answer. Since both Agencies were established to act as independent organizations, I am not sure you can always expect total consistency. However, I feel that a great deal of effort should be expended to provide for regular communication and coordination between the two Agencies concerning areas of overlapping responsibilities.

Question 6. Do you feel that labor-management relations in the Federal government should resemble as closely as possible the practices and precedents of those in the private sector? Are there important differences in the two?

Answer. I believe that labor-management relations in the Federal government should resemble practices and precedents in the private sector wherever appropriate. In passing the Civil Service Reform Act Congress adopted practices and precedents from the private sector.

There are important differences between labor-management relations in the Federal government and the private sector. Several of the most important differences are in the negotiability of economic issues such as wages and benefits, the right to strike, work slowdowns as well as picketing that interferes with government operations.

III. THE CIVIL SERVICE REFORM ACT

Question 1. What do you feel are the most important principles of the Civil Service Reform Act?

Answer. The most important principles of the Civil Service Reform Act are the incentives and rewards for good work, providing a mechanism for establishing personnel policies covering civilian employment, safeguarding both the merit system and individual employes against abuses and unfair personnel actions and the establishment of specific policies and approaches to Federal Labor Relations

matters. Further, the Civil Service Reform Act should ensure an effective and efficient government.

Question 2. Do you feel that the Civil Service Reform Act offers too much, too title, or the appropriate amount of protection for the federal employe?

Answer. My experience with the Federal sector has been too limited to respond to this question at this time.

Question 3. Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

Answer. I have not formulated any specific ideas in this area. After I have had experience with the Act I would be willing to provide my views concerning possible changes in the Act.

IV. RELATIONS WITH CONGRESS

Question 1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Answer. Yes.

RESPONSES OF MS. MAHONE TO WRITTEN QUESTIONS SUBMITTED BY SENATOR DANFORTH

An investigation by the Subcommittee on Federal Expenditures, Research, and Rules and a report by the General Accounting Office found generally deficient management controls at the FLRA. As a result, the members, who previously had shared all management responsibilities, agreed to delegate to the Chairman the authority to act as the administrative head of the agency.

Question 1. Do you expect to continue this arrangement, and why?

Answer. I would expect to continue this arrangement and function as head of the agency. This arrangement is necessary in order to make sure that one individual is responsible and accountable for the management of the agency. If confirmed, I will review the delegation of authority document so that I have a clear understanding of those management responsibilities which have been delegated versus those which are shared by all three members.

Question 2. Will you have adequate time and authority to handle these management responsibilities?

Answer. As Chairman of the Federal Labor Relations Authority, I will devote whatever time is required to handle the management and administrative functions of the agency. With respect to whether I will have the authority to handle the management functions will depend on the extent of delegation by the other two members.

Question 3. What administrative experience do you bring to the job?

Answer. My work experience includes a variety of administrative and managerial experiences. I have held managerial assignments since 1974. These assignments have included supervisory responsibilities and decision making authority for personnel, budget, procurement and other related administrative matters. Therefore, I feel that I have the necessary experience to perform the administrative functions associated with this appointment.

Question 4. Please share any other comments on the GAO report.

Answer. I was pleased to read that GAO feels that corrective actions to remedy the problems highlighted have been taken.

Investigative work by the GAO and the FBI indicates that a senior member of the agency's management staff apparently obtained his position on the basis of an educational history that included a bogus Ph.D. degree.

Question 1. In your view, is this grounds for dismissal?

Answer. In order to make a judgment concerning this matter, I feel that I need additional information especially given the magnitude of severity associated with dismissal.

Question 2. If so, what would be your role as Chairman in that process?

Answer. If presented with the above described situation, my role as Chairman should be that of the final decision maker.

The previous General Counsel believed that there should be substantially greater management coordination between the Members and his office. He indicated that an arm's-length, almost adversarial, relationship existed even on such administrative matters as the acquisition and use of data-processing and word-processing systems.

Question 1. What should the relationship be between the General Counsel and the Members?

Answer. The relationship between the General Counsl and the members should be a cooperative one which results in effective use of the agency's human resources and efficient utilization of any office equipment. I feel that we must complement rather than compete with each other. I will do my best to prevent adversarial relationships because they are counter-productive and not in the best interest of the agency.

Question 2. What will you do as Chairman to improve that relationship?

Answer. I will meet with the General Counsel and discuss our working relationship, priorities and available resources. I believe in a participate style of management and, therefore, would involve the General Counsel in those discussions concerning the operation of the agency.

Chairman ROTH. Ms. Mahone and Mr. Miller, our committee rules require that all witnesses at nomination hearings give their testimony under oath. Will you both please stand and raise your right hands? Do you solemnly swear—why don't you come forward to the witness stand please?

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. MAHONE. I do.

Mr. MILLER. I do.

Chairman ROTH. Please be seated.

TESTIMONY OF JOHN C. MILLER, NOMINEE TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND BARBARA J. MAHONE, NOMINEE TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY

Chairman ROTH. As indicated earlier, members of this committee have already asked some substantive prehearing questions. Your responses have been placed in the record, and I will not repeat those questions, but I do have a few additional ones.

First, I would like to question you, Ms. Mahone. Is there anything you are aware of in your background which may present a conflict of interest with the duties of the office to which you have been nominated?

Ms. MAHONE. I am not aware of anything in my background.

Chairman ROTH. Is there any issue presently under consideration by the Federal Labor Relations Authority or any which may come under consideration from which you would have to disqualify yourself? If so, please be specific.

Ms. MAHONE. No.

Chairman ROTH. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of a member of the Federal Labor Relations Authority?

Ms. MAHONE. No.

Chairman ROTH. Do you agree, without reservation, to respond to any responsible summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Ms. MAHONE. Yes.

Chairman ROTH. Senator Bingaman, do you have any questions?

Senator BINGAMAN. I want to welcome you here also. I just wanted to ask you very briefly if you had a chance to review the case load that the FLRA has at the present time?

Ms. MAHONE. I have not had that opportunity.

Senator BINGAMAN. You don't have a feel for whether it is increasing or decreasing?

Ms. MAHONE. No; I do not. However, I believe based on the preliminary information I have, that it has been increasing, but I'm not sure that is the situation at the FLRA at this point in time.

Senator BINGAMAN. I guess it's fair to say that without reviewing that, you wouldn't know whether the staff which you have after the budget cuts have gone through is adequate to handle that caseload?

Ms. MAHONE. No; I'm not sure whether or not the staff is adequate to handle the existing case load.

[Ms. Mahone's prepared statement follows:]

PREPARED STATEMENT OF BARBARA JEAN MAHONE

Dear Mr. Chairman and Members of the Committee: It is a real pleasure to appear before this Committee in connection with my nomination to the Federal Labor Relations Authority. I am prepared to answer any questions whatsoever regarding this important nomination.

At this time, it might be useful to review my educational background and work experience. My undergraduate degree, in business administration, is from Ohio State University. I hold an MBA degree from the University of Michigan with a concentration in industrial relations. In 1981, I completed the Program for Management Development at Harvard's Graduate School of Business.

Additionally, I have held a variety of responsible assignments in human resources management and industrial relations for a major unionized manufacturing corporation. I have served as a member of several national negotiating teams and also have been responsible for contractual interpretations. Most recently, I have participated in joint union-management efforts that resulted in innovative and cooperative approaches to resolving labor relations issues. My work experience also includes a variety of administrative and managerial assignments that have included management level responsibilities in personnel, budget, procurement and related administrative matters.

I want to assure you that I will interpret the statute covering federal labor relations matters consistent with the intent of Congress and render decisions in a fair and imparial manner.

I look upon this nomination as a great opportunity and if confirmed will work closely with you and the other members of Congressional bodies to carry out the duties of the position.

Thank you.

Chairman ROTH. Now we turn to questions for Mr. Miller.

Mr. Miller, is there anything you are aware of in your background which may present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MILLER. Just one possibility, Senator. I am currently serving as interim chairman of the National Labor Relations Board. There is a possibility there are one or two cases presently pending before the FLRA. If any charges are filed by employees of the National Labor Relations Board, I would intend to disqualify myself. That is the only——

Chairman ROTH. The only possibility?

Mr. MILLER [continuing]. The only possibility that I'm aware of.

Chairman ROTH. Is there any issue presently under consideration, I think you pretty much answered the second question.

Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the General Counsel of the Federal Labor Relations Authority?

Mr. MILLER. No; I do not.

Chairman ROTH. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted member of the Congress if you are confirmed?

Mr. MILLER. Yes; I do.

Chairman ROTH. Senator Bingaman?

Senator BINGAMAN. Yes. Let me ask Mr. Miller, we visited about this earlier, and I was just interested in you articulating the way in which you would plan to exercise the discretion at the office you are seeking as to bring cases and not bring cases. What kind of criteria or guidelines would you think would be appropriate for the General Counsel to use in deciding whether or not to bring a case?

Mr. MILLER. Well, Senator Bingaman, probably the most important criteria is the merit of the charge. I wouldn't, for example, feel free not to issue a complaint just because the Authority has a backlog of cases.

On the other hand, I wouldn't want to add to that backlog needlessly if, after investigation, the charges had no merit. So that striking the balance, of course, would be a delicate job and a day-to-day, ongoing effort to try to make sure that cases of first impression, that policy questions and any cases involving merit—that I do issue complaints.

Now, to the extent that this may present problems to the Authority, I will have to rely on the Authority members to handle that problem themselves either by petitioning the Congress for more staff or by getting more expeditious procedures to issue the cases. But I'm such that with the help of the Authority members that Ms. Mahone will be able to tackle that job when she gets on the job.

Senator BINGAMAN. Thank you.

Chairman ROTH. I think that pretty much completes the questions the committee has. Again, I want to underscore the importance of the positions which both of you are assuming. You are assuming them at a time when I think it's critically important, the relationship of the Federal employees to the Government.

I was at a National Press Conference today, and I made the point there that I think we have, in the Federal Government, some of the best qualified people. I think it's extremely important that we try to strengthen and develop a strong working relationship between the separate components of the Federal Government. I think you have a major responsibility before you.

Thank you very much.

Ms. MAHONE. Well, thank you.

Mr. MILLER. Thank you very much.

Chairman ROTH. The committee is in recess.

[Whereupon, at 3:15 p.m., the committee adjourned, subject to the call of the Chair.]

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